

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

No. 17-70162

HEMP INDUSTRIES ASSOCIATION, ET AL.

v.

DRUG ENFORCEMENT ADMINISTRATION, ET AL.

**PETITION FOR REVIEW OF RULE
OF DRUG ENFORCEMENT ADMINISTRATION**

PETITIONERS' FURTHER EXCERPTS OF RECORD

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Of counsel:
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Hoban Law Group
730 17th St, Ste 420
Denver, CO 80202

Dated: July 28, 2017

Attorneys for Petitioners

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EXHIBIT B

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

No. 17-70162

Hemp Industries Association;)
Centuria Natural Foods, Inc.; and)
R.M.H. Holdings, Inc.)
)
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Petitioners)
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v.)
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Drug Enforcement Administration;)
Charles Rosenberg, as Acting)
Administrator, Drug Enforcement)
Administration)
)
)
Respondents)
)

DECLARATION OF CHAD CONNER

1. I am the Vice President of International Bioceutical Co LLC. (IBC), a California corporation, and am authorized by IBC to make the following statements.

2. IBC is in the business of producing and manufacturing products containing materials derived from certain parts of the industrial hemp plant (the "Materials").

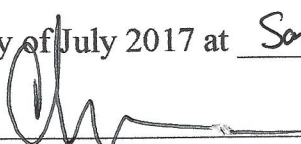
3. IBC is a business member of the Hemp Industries Association.

4. To justify the confiscation of industrial hemp-derived Materials, the DEA, in an email to IBC on or about December 7, 2016, cited a non-existent drug code for CBG, 7378, and summarily concluded that it came from "marihuana."

5. To my knowledge, neither the Controlled Substances Act nor the DEA's Orange Book references CBG or drug code 7378 at all.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 28 day of July 2017 at San Diego [place].



Chad Conner

EXHIBIT C

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

No. 17-70162

Hemp Industries Association;)
Centuria Natural Foods, Inc.; and)
R.M.H. Holdings, Inc.)
)
)
Petitioners)
)
v.)
)
Drug Enforcement Administration;)
Charles Rosenberg, as Acting)
Administrator, Drug Enforcement)
Administration)
)
Respondents)
)

DECLARATION OF LONNA BROOKS

1. I am the owner of Terry’s Health Products, LLC (Terry’s) in Bismarck, North Dakota, a North Dakota corporation, and am therefore authorized to make the following statements.

2. Terry’s is a health food and products store specializing in the sale of organic, natural, and chemical free products for the home, natural and organic foods, and a full assortment of dietary supplements.

3. Terry’s is a business member of the Hemp Industries Association.

4. Until recently, Terry's sold products derived from industrial hemp that contain cannabidiol (CBD).

5. Any and all such products contained a concentration of tetrahydrocannabinols far less than three tenths of one percent (0.3%).

6. On or about May 11, 2017, narcotics investigators with the Bismarck Police Department (BPD) entered Terry's and purchased some of our hemp-derived products to test the products for the presence of CBD.

7. On or about May 12, 2017, BPD laboratory test results showed the presence of CBD in one of our products resulting in the police's confiscation of those products.

8. During the BPD's confiscation of the industrial hemp-derived products, BPD provided me with documentation BPD relied upon in justifying the enforcement action. Included in the documentation provided was a copy of the publication of the "Marihuana Extract" rule in the Federal Register and its listing in the CFR. In fact, one of the BPD investigators drew an arrow next to the "Marihuana Extract" listing in the CFR. *See attached as Exhibit A.*

9. Terry's no longer sells hemp-derived products out of fear of further seizure and potential criminal prosecution.

10. Prior to the enforcement action herein, Terry's had sold hemp-derived products for about three years. Our monthly sales of these products averaged about \$5,000. However, about a month before the police confiscation, our sales increased greatly to about \$5,000 per week after a local news story highlighted the products. The 100% loss of these

hemp-derived product sales has had a substantial, negative impact on our small local business.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 27 day of July 2017 at Bismarck, ND [place].



Lonna Brooks

(21) Ibogaine

7260



National Prescription Drug TAKE BACK DAY Turn in your unused or expired medication for safe disposal



Report Illicit Pharmaceutical Activities RX ABUSE ONLINE

Meaning all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts

(Interprets 21 USC 812(c), Schedule I(c) (12))	
(27) N-ethyl-3-piperidyl benzilate	7482
(28) N-methyl-3-piperidyl benzilate	7484
(29) Psilocybin	7437
(30) Psilocyn	7438
(31) Tetrahydrocannabinols	7370
Meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of such plant, and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following:	
1 cis or trans tetrahydrocannabinol, and their optical isomers	
6 cis or trans tetrahydrocannabinol, and their optical isomers	
3,4 cis or trans tetrahydrocannabinol, and its optical isomers	
(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)	
(32) Ethylamine analog of phencyclidine	7455
Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE	
(33) Pyrrolidine analog of phencyclidine	7458
Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP	
(34) Thiophene analog of phencyclidine	7470
Some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP	
(35) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine	7473
Some other names: TCPy	
(36) 4-methylmethcathinone (Mephedrone)	1248
(37) 3,4-methylenedioxypropylvalerone (MDPV)	7535
(38) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E)	7509
(39) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D)	7508
(40) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C)	7519
(41) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I)	7518
(42) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2)	7385
(43) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4)	7532
(44) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H)	7517
(45) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C-N)	7521
(46) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P)	7524
(47) 3,4-Methylenedioxy-N-methylcathinone (Methylone)	7540
(48) (1-pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone (UR-144)	7144
(49) [1-(5-fluoro-pentyl)-1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone (5-fluoro-UR-144, XLR11)	7011
(50) N-(1-adamantyl)-1-pentyl-1H-indazole-3-carboxamide (APINACA, AKB48)	7048
(51) quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate (PB-22; QUPIC)	7222
(52) quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (5-fluoro-PB-22; 5F-PB-22)	7225
(53) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (AB-FUBINACA)	7012
(54) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide (ADB-PINACA)	7035
(55) 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25I-NBOMe, 2C-I-NBOMe)	7538
(56) 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25C-NBOMe, 2C-C-NBOMe)	7537
(57) 2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25B-NBOMe, 2C-B-NBOMe)	7536
(58) Marihuana Extract	7350
Meaning an extract containing one or more cannabinoids that has been derived from any plant of the genus Cannabis, other than the separated resin (whether crude or purified) obtained from the plant.	
(59) 4-methyl-N-ethylcathinone (4-MEC)	(1249)
(60) 4-methyl-alpha-pyrrolidinopropiophenone (4-MePPP)	(7498)
(61) alpha-pyrrolidinopentiophenone (alpha-PVP)	(7545)
(62) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one (butylone, bk-MBDB)	(7541)
(63) 2-(methylamino)-1-phenylpentan-1-one (pentedrone)	(1246)
(64) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one (pentylone, bk-MBDP)	(7542)
(65) 4-fluoro-N-methylcathinone (4-FMC; flephedrone)	(1238)
(66) 3-fluoro-N-methylcathinone (3-FMC)	(1233)
(67) 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one (naphyrone)	(1258)
(68) alpha-pyrrolidinobutylphenone (alpha-PBP)	(7546)

(e) *Depressants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) gamma-hydroxybutyric acid (some other names include GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate)	2010
(2) Mecloqualone	2572
(3) Methaqualone	2565

(f) *Stimulants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

Exhibit A

EXHIBIT D

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

No. 17-70162

Hemp Industries Association;)
Centuria Natural Foods, Inc.; and)
R.M.H. Holdings, Inc.)
)
)
Petitioners)
)
v.)
)
Drug Enforcement Administration;)
Charles Rosenberg, as Acting)
Administrator, Drug Enforcement)
Administration)
)
Respondents)
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DECLARATION OF THOMAS HEMBREE

1. I am the Chief Executive Officer of Dad and Dude’s International Inc. (DD) in Aurora, Colorado, a Colorado corporation, and am authorized by DD to make the following statements.

2. DD is in the business of producing micro-brewed beers and operates a brew-pub, Dad and Dude’s Breweria, in Aurora, Colorado.

3. DD is a business member of the Hemp Industries Association.

4. On or about June 13, 2016, the Alcohol and Tobacco Tax and Trade Bureau (TTB), approved DD's malt beverage formula containing industrial hemp-derived extract.

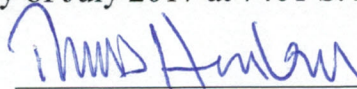
5. On or about December 14, 2016 – the same day the DEA published its “Marihuana Extract” final rule – TTB sent DD a letter demanding that DD surrender its previously approved formula containing industrial-hemp derived extract. Essentially, TTB asserted that the formula must be surrendered because the product contained cannabidiol (CBD), citing DEA's position that CBD is a controlled substance under the Controlled Substances Act (CSA). TTB further confirmed that it defers to the DEA in its interpretation of the CSA.

6. On or about December 30, 2016, TTB sent an email to DD reaffirming that TTB defers to the DEA regarding its conclusory interpretation of the CSA.

7. The disapproval of the formula has resulted in substantial disruption in DD's business and significant lost sales revenue to DD.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 28 day of July 2017 at 7401 S. Ireland Circle, Centennial CO 80116.



Thomas Hembree

EXHIBIT E

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

No. 17-70162

Hemp Industries Association;)
Centuria Natural Foods, Inc.; and)
R.M.H. Holdings, Inc.)
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Charles Rosenberg, as Acting)
Administrator, Drug Enforcement)
Administration)
)
Respondents)
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DECLARATION OF COLLEEN KEAHEY

1. I am the Executive Director of the Hemp Industries Association (HIA), a non-profit trade association representing businesses, farmers, researchers and investors working with industrial hemp and a Petitioner hereto, and am authorized by HIA to make the following statements.

2. The HIA has 550 total business and individual members of which approximately 195 are business members engaged in commerce concerning cannabinoid-rich hemp-derived products.

3. Recently, we sent a survey to these 195 members seeking information regarding the size of their businesses and the impact of the “Marihuana Extract” final rule on the businesses. Non-HIA member businesses engaged in hemp-derived product commerce also participated in the survey.
4. We received survey responses from 56 businesses, of which 37 are HIA members.
5. Fifty survey respondent businesses employ approximately 476 individuals.
6. Forty-six survey respondent businesses have approximately \$52,000,000 cumulatively invested in their businesses.
7. Thirty survey respondent businesses estimate their 2016 revenues cumulatively totaled approximately \$69,000,000 of which approximately \$20,000,000 was from hemp-derived products.
8. Forty-three survey respondent businesses project their 2017 revenues to be approximately \$115,000,000 of which approximately \$50,000,000 is projected from the sale of hemp-derived products. However, based on the responses from thirteen of these businesses regarding lost revenues resulting from the “Marihuana Extract” final rule, HIA estimates that the projected 2017 revenues of the survey respondent businesses and the entire U.S. industry would have been tens, if not hundreds, of million dollars higher but for the publication of the final rule.

9. Since DEA published the final rule, numerous HIA members have had hemp product shipments seized by Customs and Border Patrol because of the mere presence of any cannabinoids in the products.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 28 day of July 2017 at Phoenix, Arizona.



Colleen Keahey

EXHIBIT F

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

No. 17-70162

Hemp Industries Association;)
Centuria Natural Foods, Inc.; and)
R.M.H. Holdings, Inc.)
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Petitioners)
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v.)
)
Drug Enforcement Administration;)
Charles Rosenberg, as Acting)
Administrator, Drug Enforcement)
Administration)
)
Respondents)
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DECLARATION OF MICHAEL BRUBECK

-
1. I am the President of Centuria Natural Foods, Inc. (“Centuria”), a Nevada corporation, and I am authorized by Centuria to make the following statements.
 2. Centuria registered its formation with the Nevada Secretary of State on October 9, 2014.
 3. Centuria is in the business of producing and manufacturing products containing materials derived from certain parts of the industrial hemp plant.

4. Centuria has experienced substantial disruption and harm as a result of DEA's Final Rule.
5. Prior to the Final Rule, Centuria had negotiated a particular contract – which exceeded \$14 million in annual value – which the other party cancelled on December 15, 2016, citing the issuance of the Final Rule.
6. Centuria also lost other existing and/or prospective business or contracts with other national manufacturers exceeding \$11 million.
7. To my knowledge, one of Centuria's manufacturing and distribution partners had all of their approximately 400 products – which all but 3 do not contain any hemp-derived materials – pulled from United Natural Foods, Inc., a national distributor, due to the Final Rule.
8. Immediately subsequent to the Final Rule's publication in December 2016, Centuria's sales and growth plummeted.
9. All of these disruptions have resulted in significant economic losses to Centuria.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 28th day of July 2017 at Scottsdale, AZ [place].



Michael Brubeck

EXHIBIT G

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

No. 17-70162

Hemp Industries Association;)
Centuria Natural Foods, Inc.; and)
R.M.H. Holdings, Inc.)
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Petitioners)
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Drug Enforcement Administration;)
Charles Rosenberg, as Acting)
Administrator, Drug Enforcement)
Administration)
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Respondents)
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DECLARATION OF PEYTON PALAIO

1. I am the President of R.M.H. Holdings, Inc. (“RMH”), a Wyoming corporation, and I am authorized by RMH to make the following statements.

2. RMH registered its formation with the Wyoming Secretary of State on November 27, 2015.

3. RMH is in the business of cultivating industrial hemp.

4. RMH has experienced a substantial amount of disruption within its business due to the Final Rule.

5. RMH has lost a number of both existing and prospective clients as a result of the Final Rule.

6. RMH's 2016 revenues were approximately \$4.37 million and its projected 2017 revenues, calculated in our proforma during the 3rd quarter of 2016, were \$9.2 million.

7. Since the Final Rule, a number of current commitments to do business were dropped, adversely impacting the business's growth and gross revenue. At the end of the 2nd quarter of 2017, RMH is now tracking towards less than \$3 million in gross revenues for the year of 2017.

8. This change represents a projected loss of \$6.2 million through 2017 that RMH attributes to the Final Rule.

9. Ultimately the volume of public uncertainty stemming from the Final Rule has eroded our current market and our ability to serve our customers to the point we may lose our business entirely if we continue to trend downward as we have this year. After such a substantial investment into the industry and the building our of business, this realization is absolutely catastrophic.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 28th day of July 2017 at Atlanta, Georgia [place].

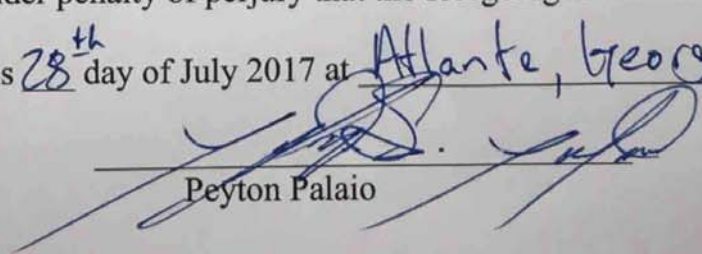

Peyton Palaio

EXHIBIT H

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

No. 17-70162

Hemp Industries Association;)
Centuria Natural Foods, Inc.; and)
R.M.H. Holdings, Inc.)
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Drug Enforcement Administration;)
Charles Rosenberg, as Acting)
Administrator, Drug Enforcement)
Administration)
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Respondents)
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DECLARATION OF JESSICA KREIDER

1. I am the Vice President of Capital Insurance & Bonding Services Co. (CIBS) in Roanoke, Virginia, a Virginia corporation, and am authorized by CIB to make the following statements.

2. As part of my work as an insurance agent, I assist businesses in obtaining various forms of insurance policy coverage.

3. CIBS is a business member of the Hemp Industries Association.

4. I assist businesses selling hemp-derived products in obtaining commercial insurance policies.

5. On or about June 26, 2017, an underwriter informed me that it would not insure any businesses shipping these hemp-derived products across state lines citing the “Marihuana Extract” rule to support its conclusion that they are on the Controlled Substances Act (CSA) list.

6. To date, all other underwriters that I have reached out to for coverage of these hemp-derived products have declined coverage citing the “Marihuana Extract” final rule.

7. This policy by insurance underwriters extends to numerous HIA member businesses engaged in hemp-derived product commerce.

8. The impact of this policy on CIB’s revenues has been substantial. As a result of the final rule, CIB has lost an estimated 150 prospective customers and projects lost revenues in 2017 to be approximately \$115,000.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 28 day of July 2017 at July Roanoke, VA.



Jessica Kreider

EXHIBIT I

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 17-70162

Hemp Industries Association;)
Centuria Natural Foods, Inc.; and)
R.M.H. Holdings, Inc.)
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Drug Enforcement Administration;)
Charles Rosenberg, as Acting)
Administrator, Drug Enforcement)
Administration)
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Respondents)
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DECLARATION OF MICHAEL MONA, JR.

1. I am the Chief Executive Officer of CV Sciences, Inc. (CV), a California corporation, and I am authorized by CV to make the following statements.
2. CV is in the business of producing and manufacturing products containing materials derived from certain parts of the industrial hemp plant.
3. CV is a business member of the Hemp Industries Association.

4. CV, its partners and consumers have experienced substantial disruption and harm as a result of DEA’s Final Rule.

5. CV, along with many of our retailer partners and consumers, became greatly concerned about regulatory and legal compliance as a result of the Final Rule.

6. Since the Final Rule, many partners who previously carried hemp-derived products will no longer do so.

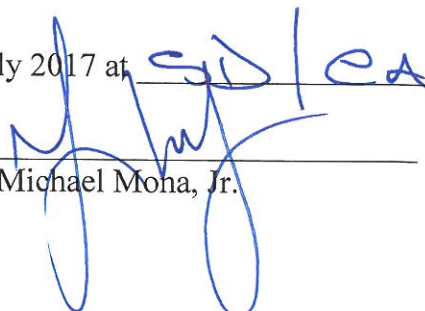
7. Other prospective distribution partners – who CV was engaged in discussions and negotiations with concerning the sale of such products – now refuse to carry such products as a result of the Final Rule.

8. Since the Final Rule, CV and its partners have also experienced difficulties obtaining and maintain relationships with banking institutions and merchant processors who no longer are willing to service companies in selling hemp-derived products because of the Final Rule’s issuance.

9. Cumulatively, since the Final Rule, CV has lost dozens of partner, merchant and service accounts, leading to the removal of CV’s products from market, and reduction of product offerings and distribution channels.

10. All of these disruptions have resulted in significant economic losses to CV.

Executed this 27 day of July 2017 at Sidley [place].



Michael Mona, Jr.

EXHIBIT J

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

No. 17-70162

Hemp Industries Association;)
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Charles Rosenberg, as Acting)
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Administration)
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Respondents)
)

DECLARATION OF GABRIEL ETTENSON

1. I am the General Manager of Elixinol, a Colorado corporation, and I am authorized by Elixinol to make the following statements.
2. Elixinol is in the business of producing and manufacturing products containing materials derived from certain parts of the industrial hemp plant.
3. Elixinol is a business member of the Hemp Industries Association.
4. Elixinol’s 2016 revenues were approximately \$5,000,000 and its projected 2017 revenues are \$10,000,000. This represents a projected loss of \$1,000,000 or a

projected lack of growth of 10% that Elixinol attributes to DEA's December 2016 "Marihuana Extract" final rule. To date, Elixinol estimates its lost revenues as a result of the final rule to be \$1,000,000.

5. We have also lost additional business related to CPB import delays as a result of Marihuana Extract code confusion and Medical & Health professionals refusing to assist in consumer education because of concerns about DEA enforcement actions.

Executed this 28 day of July 2017 at Broomfield CO.

gabriel ettenson

Gabriel Ettenson

EXHIBIT K

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 17-70162

Hemp Industries Association;)
Centuria Natural Foods, Inc.; and)
R.M.H. Holdings, Inc.)
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Administration)
)
Respondents)
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DECLARATION OF JOEL STANLEY

-
1. I am the Chief Executive Officer of CWB Holdings, Inc. (“CW”), a Colorado corporation and am authorized by CW to make the following statements.
 2. CW is in the business of producing and manufacturing products containing materials derived from certain parts of the industrial hemp plant (the “Materials”).
 3. CW is duly registered with the Colorado Department of Agriculture for the cultivation of industrial hemp.
 4. CW is a business member of the Hemp Industries Association.

5. Any and all such Materials are lawfully cultivated, harvested, processed, manufactured and/or otherwise produced in the applicable jurisdiction(s) where such activities occur, such jurisdictions being Colorado and Kentucky, pursuant to the Section 7606 of the Agricultural Act of 2014, and the Omnibus and Appropriations Act of 2016, Section 763, and its continuing resolutions.

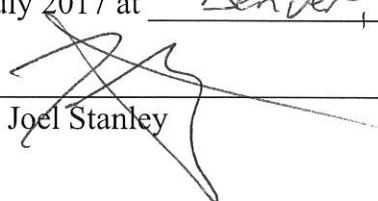
6. Any and all such Materials contain a concentration of tetrahydrocannabinols less than three tenths of one percent (0.3%).

7. On or about July 5, 2017, the Drug Enforcement Administration (“DEA”) issued a statement, published by *The Cannabist* (via THE DENVER POST), alleging that CW’s industrial hemp-derived products, specifically, violate the Controlled Substances Act.

8. This DEA statement, together with DEA’s Final Rule concerning “marihuana extract,” place CW under immediate and continued imminent threat of enforcement by the DEA and sister federal, state and local law enforcement and regulatory agencies, along with corresponding adverse impacts upon, and financial damages against, our business.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 28th day of July 2017 at Denver, CO [place].



Joel Stanley

EXHIBIT L

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

**Nos. 03-71336
03-71603**

<hr/>)
Hemp Industries Association, et al.,)
)
Petitioners)
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v.)
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Drug Enforcement Administration, et al.,)
)
Respondents)
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DECLARATION OF ROGER GUSSIASS

1. I am the owner and chief executive of Healthy Oilseeds, LLC, a North Dakota limited liability company in the business of growing and processing grains and oilseeds, and selling those products in the United States and around the world. Healthy Oilseeds is a licensed and bonded grain buyer that contracts with North Dakota farmers to grow flax, borage and hemp.

2. Our company was granted a license to cultivate industrial hemp by the North Dakota Department of Agriculture, pursuant to section 7606 of the federal 2014 Farm Bill and implementing laws in North Dakota.

3. Our company has taken the seeds from that hemp; as well as seeds from other licensed growers of industrial hemp; and intends to process those hempseeds into oil, cake and protein powder to be sold throughout the United States and exported to customers in a number of countries around the world. These products by definition are derived from seed which, since it has been crushed, is sterilized hempseed.

4. I received a letter from the North Dakota Department of Agriculture, dated December 23, 2016, in which the Department advised me that our company would not be permitted to “sell and ship industrial hemp derived products both out of North Dakota and internationally,” without a registration (license) from the Drug Enforcement Administration; and indicating that, “Because you have not yet been granted DEA approval, you are currently not authorized to sell or ship hemp products internationally or to states that do not have similar pilot industrial hemp research programs. Failure to comply with . . . federal and state laws may result in the revocation of your industrial hemp license and you may be subject to state and federal administrative and criminal sanctions.”

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 24 day of February 2017 at Carrington [place].
North Dakota



Roger Gussiaas

EXHIBIT A

To Declaration of Roger Gussiaas

COMMISSIONER
DOUG GOEHRING



ndda@nd.gov
www.agdepartment.com

NORTH DAKOTA
DEPARTMENT OF AGRICULTURE
STATE CAPITOL
600 E BOULEVARD AVE DEPT 602
BISMARCK ND 58505-0020

December 23, 2016

Roger Gussiaas, President
Healthy Oilseeds, LLC
6947 5th St NE
Carrington, ND 58421

Dear Mr. Gussiaas,

This letter is in reference to the email you sent yesterday, December 22, 2016, to Rachel Seifert-Spilde, Industrial Hemp Program Coordinator; Gary Pastushok, Plant Industries Division Director; and Joseph Bialke, Assistant Attorney General. Your email was forwarded to me.

In this email, you indicated that you intend to begin selling industrial hemp products out of North Dakota prior to receiving approval from the Drug Enforcement Agency (DEA). This is prohibited.

As you are aware, the North Department of Agriculture Industrial Hemp Agriculture Research Program (NDDA IHARP) is a pilot agricultural research program authorized by Section 7606 of the 2014 Federal Farm Bill. However, this new agricultural research program is heavily regulated because industrial hemp is a Schedule I controlled substance under the Federal Controlled Substances Act.

The NDDA, for purposes of IHARP marketing research, is continuing to work with the DEA in order to obtain approval for you to sell and ship industrial hemp derived products both out of North Dakota and internationally. Yesterday, we provided the DEA further requested information. Because of your and NDDA's common interests in industrial hemp marketing research, we will continue to regularly follow up with the DEA in relation to our pending request that you be granted approval. However, to date, DEA approval has not yet been granted.

Because you have not yet been granted DEA approval, you are currently not authorized to sell or ship hemp products internationally or to states that do not have similar pilot industrial hemp research programs. Failure to comply with the parameters of your NDDA industrial hemp license, the NDDA IHARP, and federal and state laws may result

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in the revocation of your industrial hemp license and you may be subject to state and federal administrative and criminal sanctions.

For your reference, I have attached a copy of the USDA/DOJ-DEA/DHHS-FDA Statement of Principles on Industrial Hemp, dated August 8, 2016. I have also attached a copy of the Memorandum of Understanding (MOU) that you agreed to in order to be part of the NDDA IHARP.

I expect each participating NDDA IHARP pilot producer and processor to comply with all applicable laws as well as all NDDA IHARP terms and conditions.

Please contact Ms. Rachel Seifert-Spilde, Industrial Hemp Program Coordinator, at (701) 328-4128 if you have any further questions or need any additional information.

Sincerely,



Thomas H. Bodine
Deputy Commissioner

cc:

- 1) Doug Goehring, ND Agriculture Commissioner
- 2) Gary Pastushok, NDDA Plant Industries Division Director
- 3) Rachel Seifert-Spilde, NDDA Industrial Hemp Program Coordinator
- 4) J.P. Bialke, Assistant ND Attorney General

Attachments:

- 1) USDA/DOJ-DEA/DHHS-FDA Statement of Principles on Industrial Hemp, dated August 8, 2016
- 2) NDDA IHARP/Roger Gussiaas MOU

EXHIBIT M



Contact: Officer Pat Renz
355-1876
prenz@bismarcknd.gov

May 12, 2017

FOR IMMEDIATE RELEASE

Police Contact Local Merchants Who May Be Selling Illegal Products

On May 11, 2017 Narcotics Investigators with the Bismarck Police Department went to two different stores in Bismarck that were selling Cannabinol products. The investigators identified themselves as police officers and advised the merchants that they were at their store to purchase some of the Cannabinol products in order to have it tested at the ND State Crime Lab since Cannabinol is a Schedule 1 controlled substance. The officers told the merchants that they would inform them of the lab results as soon as they received them.

Results from the products purchased by the officers came back today. One of two items purchased at Terry's Health Products came back positive for Cannabinol. All three items purchased at the Food Co-op came back positive for Cannabinol. Since being informed of the lab results both stores have willingly turned over all Cannabinol products to the Bismarck Police Department for disposal. No charges are being sought against the merchants since it appears that they were unaware that Cannabinol became a Schedule 1 controlled substance in December of 2016.

The Bismarck Police Department would like to make it clear that they did not conduct an organized surprise raid on either merchant. Furthermore, although both stores were informed that they could be charged if they continued to sell their Cannabinol products if they tested positive, there was no threat of imminent arrest made by the officers. The merchants involved have been completely cooperative with the Bismarck Police Department and the department views them as reputable businesses that had no intention of doing anything illegal; they are making every effort to fully comply with the law as it applies to Cannabinol.

####

CERTIFICATE OF SERVICE

I certify that on July 28, 2017, I served a true and correct copy of the foregoing *Further Excerpts of Record*:

Via PACER, e-filed upon:

Brian Stretch
United States Attorney
Office of the United States Attorney
450 Golden Gate Ave, 11th Floor
San Francisco, CA 94102

John J. Martin
Special Agent in Charge
Drug Enforcement Administration
450 Golden Gate Ave, 14th Floor
San Francisco, CA 94102

The Honorable Loretta Lynch
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania, NW
Washington, DC 20530

The Honorable Chuck Rosenberg
Drug Enforcement Administration
7000 Army-Navy Dr.
Arlington, VA 22202

Wendy H. Goggin
Chief Counsel
Office of General Counsel
Drug Enforcement Administration
8701 Morrissette Dr.
Springfield, VA 22152

/s/ Patrick D. Goggin
Patrick D. Goggin

Dated: July 28, 2017